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Official Records

President: Mr. Lajčák (Slovakia)

The meeting was called to order at 3.05 p.m.

Agenda items 75 and 129

Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General (A/72/266)

International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General (A/72/261)

The President: I call on Judge Carmel Agius, President of the International Tribunal for the Former Yugoslavia.

Judge Agius (International Tribunal for the Former Yugoslavia): It is my deep honour to address the Assembly for the second, and indeed last, time in my capacity as President of the International Criminal Tribunal for the Former Yugoslavia (ICTY). At the outset, please allow me to congratulate His Excellency Mr. Miroslav Lajčák of Slovakia on his election as President of the General Assembly at its seventy-second session. It is with great pleasure that I wish Your Excellency a successful tour of duty.

I must note also that our meeting today takes place not long before United Nations Day, on 24 October, which marks the anniversary of the Organization and the entry into force of its founding document, the

Charter of the United Nations. I am proud to represent an institution that has played an active role in furthering the principles and purposes of the Charter, and I once again reaffirm our commitment to those ideals and to continuing the fight against impunity for genocide, war crimes and crimes against humanity. Until the very moment that the Tribunal closes its doors, we will continue to reinforce our message to the international community that perpetrators of such crimes must be brought to justice.

Before the Assembly today is the twenty-fourth and final annual report of the Tribunal (A/72/266). The report details the progress made in the past year towards the completion of the Tribunal's mandate and the transition to the International Residual Mechanism for Criminal Tribunals, which I will henceforth refer to as the Mechanism.

As the Assembly is aware, the Tribunal has now completed its work in all but two substantive cases. The judges heard the final arguments in both cases within the past year and have been fully engaged in intensive deliberations and judgment drafting since then. Our resolute determination to conclude all judicial work by the end of November 2017 will result in the delivery of judgments next month, on 22 November for the *Mladić* trial case and on 29 November for the *Prlić et al.* appeal case.

In relation to the contempt case against Petar Jojić and Vjerica Radeta, unfortunately, the news is not so happy. No progress has been made in that case since I stood here a year ago (see A/71/PV.44), and the accused

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are still at large in Serbia, owing to Serbia's continued lack of cooperation with the Tribunal on that matter. That is despite my subsequent reporting of the matter to the Security Council on numerous occasions. Now, given its imminent closure, there is no longer any possibility for the ICTY to try that contempt case, but we will take whatever action is necessary to ensure that the accused will face justice, if necessary, even after the Tribunal closes down. The ICTY sincerely hopes that Serbia will take this final opportunity to comply with the Tribunal's statute and demonstrate a genuine commitment to international criminal justice.

Moving on to more heartening news, I can confirm to you, Mr. President, and to all present that, in line with my solemn commitment to the Assembly, the ICTY will, after 24 years, formally close its doors on 31 December 2017. We will have completed our mandate. On behalf of the Tribunal and its three principals, I would like to thank all States Members of the United Nations and the international community as a whole for their enduring support and assistance over the past quarter of a century. We congratulate Members on their vision back in 1993 and their dedication throughout the Tribunal's life, and we encourage them to recognize the immensity of our joint achievements. In my view, the principal achievement of the Tribunal, and its most important legacy, is its ground-breaking role in the fight against impunity and the successful fulfilment of its mandate to prosecute those who bear the greatest responsibility for the horrific crimes committed in the former Yugoslavia during the conflicts of the 1990s.

As we reflect on the work that the Tribunal has accomplished, I recall that the ICTY blazed a trail of truly remarkable firsts: it was the first international criminal tribunal since the post-Second World War Nuremberg and Tokyo Tribunals; the first tribunal ever established under Chapter VII of the Charter of the United Nations; the first to indict a sitting Head of State; and the first to have all female principals. The ICTY has issued more indictments than any other international criminal court and has successfully brought to justice 161 individuals in respect of serious violations of international humanitarian law.

Also, unlike other courts, the ICTY will close with no outstanding fugitives for core crimes. Numerous jurisprudential firsts have been equally remarkable; for instance, the Tribunal was the first to comprehensively address conflict-related sexual violence; the first to clarify the applicability of the laws and customs of war

in non-international armed conflicts; and the first to affirm that the destruction of cultural heritage may amount to a crime against humanity. On front after front, the ICTY has developed not only jurisprudence, but also tools, procedures and programmes to address specialized areas of international criminal law and practice, such as witness protection, State cooperation and judicial efficiency. While the ICTY has also faced numerous challenges throughout its operations, the record will show that it has responded positively, indeed risen, to these challenges in ways that will be relevant for other courts and tribunals in the future.

The achievements of the ICTY do not begin and end in The Hague. Not only has our delivery of justice assisted in rebuilding the trust between the States of the former Yugoslavia and the United Nations, but our numerous outreach and capacity-building programmes have assisted those in the region in putting their countries back together. Today, the former Yugoslav republics have adjudicated numerous cases through their own special war-crimes courts, and their specialized war-crimes prosecutors continue to investigate and bring charges against perpetrators numbering in their thousands. However, let me assure the Assembly, that there is much room for improvement and a need for continued assistance to the relevant institutions and actors on the ground.

In order to ensure that the ICTY continues to contribute to the fight against impunity even after we close our doors and in order to further consolidate its legacy, the ICTY has developed a series of legacy and closing events entitled "ICTY legacy dialogues". I am pleased to inform the Assembly that they have been met with very positive responses so far. As part of that series, the ICTY held a final Legacy Conference in June of this year in Sarajevo, at which the myriad legacies of the Tribunal were discussed with all relevant stakeholders. As members know, the ICTY adopted a set of conclusions and recommendations at the end of the Conference, which are annexed to the annual report that they have before them. We anticipate that they will be of use to other courts and tribunals in future.

The Tribunal has also continued to produce documentaries and short features for dissemination online, as well as in public forums in the former Yugoslavia, and has recently launched a lecture series to tell the stories and share the insights of ICTY staff and defence counsels over their years of service. To further commemorate our closure, the Tribunal will

hold an event on 4 December at the Secretariat in New York, followed by final events in The Hague, consisting of a symposium and a closing ceremony on 18 and 21 December, respectively. It is my hope and expectation that many of the representatives of States Members of the United Nations will join us in New York and in The Hague as we celebrate the Tribunal's unwavering commitment and significant contributions to international criminal justice.

As we prepare for life after the ICTY, I would like to thank the Tribunal's Division of Administration, which, among other sections, continues to play a vital role in ensuring a seamless transfer of responsibilities to the Mechanism, while at the same time taking pains to ensure that our closure remains efficient and an example for other downsizing institutions to follow. By 1 January 2018, the Tribunal will essentially have been liquidated, with all but a few residual liquidation tasks remaining, including dealing with the separation of staff members whose contracts end in December and closing the financial accounts. By then the Mechanism will have assumed full responsibility for all residual functions of the ICTY, as well as its extensive archives.

Incidentally, in relation to the archives, the ICTY has made substantial progress in the preparation and transfer of its paper, electronic, audio-visual and other records for preservation and management by the Mechanism. That work was done in collaboration with the Mechanism in order to ensure that the records will be easily manageable after their transfer and accessible for posterity. As of 1 October, the Mechanism has received approximately 86 per cent of the ICTY's records, which will be housed in the Mechanism's archives, and the remaining records will be handed over to the Mechanism by 31 December.

In these and many other respects, I wish to thank the President of the Mechanism, my colleague Judge Theodor Meron, for his continued cooperation and support as we transfer the remaining functions and records to the Mechanism and navigate our way through these not easy and challenging final months.

The achievements of the Tribunal are the product of the hard work and dedication of all of the judges, principals and staff members of the Tribunal, who deserve to be commended once more. I can only reiterate that the significant progress that we have made since the last report towards the conclusion of our mandate (A/71/263) would not have been possible

without the perseverance, exceptional efforts and excellent work of my colleagues, the judges and staff, and I take this opportunity to openly and publicly thank them most sincerely.

Now that we are only weeks away from delivering judgment in the final cases, I wish in particular to pay tribute to the staff in chambers, who have been and are still working around the clock to ensure the cases are completed on time. I must tell the Assembly that the staff who remain at the ICTY are among the most dedicated, professional and loyal individuals I have ever known. Indeed, many have sacrificed opportunities for more secure and lucrative employment prospects elsewhere, so that they may see their work with the ICTY through until the end. I sincerely hope that Member States will continue to encourage the Secretariat and other United Nations entities to favourably consider applications from qualified ICTY staff members, especially those who have chosen to remain with the Tribunal until the completion of their contracts.

I take this opportunity also to thank the Secretary-General for his unwavering support for the work of the Tribunal since his appointment and for wholeheartedly backing the efforts undertaken by the Tribunal to fulfil its mandate. Similarly, I would like to recognize the Legal Counsel and his Deputy and their team for their ongoing valued assistance throughout our final year.

As I stand before the Assembly today, marking my final appearance before it as President of the ICTY, I believe that we can all be extremely proud of what the Tribunal has accomplished since 1993. I, personally, could not be prouder of our many contributions to the fields of international criminal law and international humanitarian law, to the region of the former Yugoslavia, to other courts and tribunals, and, of course, to international justice more broadly. The States Members of the United Nations can — and should — share in that sense of pride because, without them, the ICTY would never have been created or given the means and resources with which to succeed. I therefore conclude by expressing once more my gratitude to all Member States and by wishing them success, courage and determination as they carry forward the ideals and dedication to justice for which the ICTY, together with them, has stood and which the ICTY has shown can be achieved.

The President: I now call on Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals.

Judge Meron (International Residual Mechanism for Criminal Tribunals): It is my privilege to appear before the Assembly as President of the International Residual Mechanism for Criminal Tribunals. Before proceeding, I would like to congratulate you, Mr. President, on your assuming the presidency of the General Assembly at its seventy-second session. I wish you, Sir, every success during your term.

I also wish to acknowledge the invaluable support provided by the Office of Legal Affairs and especially by Mr. Miguel Ferreira de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, and Mr. Stephen Mathias, Assistant Secretary-General for Legal Affairs.

Finally, I wish to acknowledge my colleague, President Agius. As a former President of the International Criminal Tribunal for the former Yugoslavia myself, it is a particular privilege to appear together with him in this Hall today on the milestone occasion of the final report of the International Tribunal for the Former Yugoslavia (ICTY) to the Assembly (A/72/266).

A few weeks ago, the world lost a titan in the field of international law, Professor M. Cherif Bassiouni. He was, notably, among the first to call for the creation of a tribunal to try those accused of grave violations of international law in the former Yugoslavia, and he was instrumental in the creation of the International Criminal Court. He is, in many respects, the founding father of modern international criminal law, to whom we are all deeply indebted for his legal wisdom and his moral insight. As Professor Bassiouni recognized,

“peace is not merely the absence of armed conflict. It is the restoration of justice, and the resort to the rule of law to mediate and resolve conflicts”.

It was in recognition of those very principles — the irreplaceable role of justice and the need to ensure accountability for horrific violations of international law through the rule of law — that in 1993 the ICTY was established and, a year later, the International Criminal Tribunal for Rwanda (ICTR). The commitment of the United Nations to seeking accountability when faced with mass atrocities has continued apace over the past quarter century and continues to this day, both in this

Hall and elsewhere in the Organization. The Mechanism was born of that same commitment to justice and the rule of law, in recognition of the fundamental need to ensure that the remaining fugitives could and would still be called to account, even after the closure of the ICTY and the ICTR.

However, the creation of the Mechanism bespeaks something more — a recognition that, with justice, come certain enduring responsibilities, which remain even after the Tribunals’ final judgments on trial or appeal have been handed down. I speak of responsibilities for vulnerable victims and witnesses who have been granted protection to facilitate their testimony, for convicted persons who are serving their sentences or are seeking to have them revised, for States and individuals that provided sensitive information that is now preserved in the invaluable archives of the two Tribunals and for those communities that seek to ensure accountability in their own courts for the terrible crimes that were committed in Rwanda and the former Yugoslavia.

Those are solemn undertakings. If we at the Mechanism were to fail to meet those residual responsibilities, it would be a failure not only for the legacies of the ICTR and the ICTY, but also for international justice, risking the unravelling of all that has been built over the past quarter century. What victims and witnesses would come forward in future to give evidence on what they have seen in Syria, in Iraq or in countless other conflicts if it becomes apparent that we cannot continue to provide the protections that have been granted to victims and witnesses who appeared before the ICTR and the ICTY? What State would cooperate with future investigations by providing sensitive information if we cannot ensure the safeguarding of the confidential information that made possible essential elements of the ad hoc tribunals’ work? What quality of justice is rendered in court if, in years to come, we cannot guarantee that prisoners’ conditions of confinement remain consistent with basic human dignity?

The Mechanism’s mandate is indisputably limited in material and temporal scope, and its functions are residual in nature. However, our successful completion of that mandate is both the necessary consequence of what has already been achieved by international justice and an essential precursor to continued progress in our fight to end impunity for violations of international law.

As set forth in the Mechanism's written report (A/72/261), submitted in August, we have made important strides in carrying out the Mechanism's mandate over the course of the past year. In the time remaining, I will highlight a few of the important developments set forth in our report.

First, since I last appeared before the Assembly (see A/71/PV.44), the Mechanism has welcomed a new Registrar, Mr. Olufemi Elias of Nigeria. I very much appreciate his effective leadership of the Registry and the support that he gives me in my role as President.

On the judicial front, the Mechanism commenced its first retrial in June, in the case of *Stanišić and Simatović*, and that trial proceeds apace. I am pleased to report that in the case of *Ngirabatware*, a bench of the Mechanism's Appeals Chamber, as originally constituted, was able to resume its work in June, and a hearing in that case will take place in the coming months.

The Mechanism's Appeals Chamber remains seized of appeals in the cases of *Karadžić* and *Šešelj*, and a hearing in the latter case has been scheduled for 13 December. The Appeals Chamber stands ready to hear any appeal that may follow issuance of the ICTY trial judgment in the case of *Mladić*, which is anticipated next month. All the while, the judges of the Mechanism continue to address a variety of requests and applications, with the great majority of the judges working part-time from their homes and offices the world over.

The judges of the Mechanism also stand ready to try the remaining fugitives indicted by the ICTR, and the Mechanism's Prosecutor, Mr. Serge Brammertz of Belgium, is committed to arresting and bringing those fugitives to justice. His Office is refocusing and strengthening its efforts in that regard, recognizing that the window of opportunity will not remain open forever.

In November of last year, the Mechanism opened its landmark new premises in Arusha at a ceremony presided over by Her Excellency Samia Hassan Suluhu, the Vice-President of the United Republic of Tanzania. In that context, I wish once again to record our sincere gratitude to the Government of the United Republic of Tanzania, together with which a shared vision for the future has been realized under the guidance of the Assembly.

Over the course of the past year, staff in Arusha and The Hague have been working together to ramp up the

Mechanism's administrative capacity, so as to ensure smooth operations on both of the continents where the Mechanism operates following the ICTY's closure at the end of this year. We remain grateful for all that the staff of both the ICTR and the ICTY have done over the years to provide administrative and other support to the Mechanism during the institutions' respective periods of coexistence, and for the very significant economies gained through those arrangements.

In all that we do, we also remain dependent upon the ongoing support and cooperation of Member States. In Africa in particular, and in Europe, we have continued to work with partner States over the past year to make significant advances in areas such as the enforcement of sentences and the relocation of acquitted and released convicted persons, to mention but two key areas of fruitful cooperation. Simply put, the successful, timely and efficient completion of the Mechanism's mandate will not be possible without the continued support and cooperation of Member States.

Professor Bassiouni once wrote — quite rightly — that no price can be put on the value of doing what is right. At the same time, however, I am keenly aware that the resources to carry out our mandate are necessarily limited, and that our careful stewardship of those resources is itself a solemn responsibility. With that in mind, we must — and will — ensure that our work is undertaken with the greatest efficiency and the greatest efficacy and in the most cost-effective manner possible, including by ensuring that our judicial proceedings are conducted as expeditiously as possible. We strive to continually identify and implement best practices and technological innovations wherever possible and to budget responsibly accordingly.

We also remain ever mindful that ours is a small and temporary institution, whose functions and size will diminish over time, such that, even as we are in the final stages of establishing an administrative capacity to stand on our own and are entering a period of peak judicial activity, we are already planning for the steps necessary to scale down thereafter. We owe nothing less to the Organization and to the public interest of the international community at large, which, together, we serve.

Mr. Cheshire (New Zealand): I have the honour to speak today on behalf of Canada and Australia as well as my own country, New Zealand.

Canada, Australia and New Zealand wish to reaffirm our strong support for the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals. Their work accords with our long-standing support for efforts to break the cycle of impunity for the most serious international crimes, regardless of where they occur.

Speaking for my own country, New Zealand, we feel a special sense of connection with the work of the Tribunals, as we were serving on the Security Council when both the ICTY and the International Criminal Tribunal for Rwanda (ICTR) were established 24 years ago.

Now, as we look ahead to the final months of the ICTY, we can be proud of its achievements. They include delivering justice to victims of some of the most horrific atrocities in recent history, the Tribunal's contribution to international criminal law jurisprudence and international humanitarian law, the prosecution of sexual and gender-based violence, and assisting with the establishment of specialized war-crimes chambers in the region. The ICTY has rendered justice in the complex criminal proceedings before it and has made, through its outreach programme, a lasting impact on the region.

There have been challenges, but the two Tribunals leave behind a rich legacy that demonstrates what we can achieve when we all work together towards our common goals of accountability and of ending impunity for those who commit serious international crimes in complex conflict situations. We look forward to the Mechanism continuing that legacy.

During the course of the ICTY mandate, proceedings have been completed for 161 individuals indicted by the Tribunal. The Tribunal is working hard to deliver the judgments in the two remaining cases on time. However, as we have heard, serious challenges remain for the ICTY to complete that work. Canada, Australia and New Zealand thank the Tribunal for managing the challenges in fulfilling its completion strategy and focusing its resources on its core completion work, drawing on the lessons learned from the earlier closing of the ICTR. We welcome in particular the practical measures adopted by the Tribunal in providing incentives for staff members to remain with the ICTY until the end of their contracts.

We commend the Tribunal for its perseverance on that issue.

As we pay tribute to the significant achievements of the ICTY, the reports of ongoing and widespread denial and revisionism regarding the value of the Tribunal's work are concerning. The important record of the crimes and facts established by both Tribunals cannot be understated. Acknowledgement of the crimes that have been established to have been committed is critical in order to prevent such atrocities from occurring again.

We are pleased to see the Mechanism's continued commitment to maximizing effectiveness and efficiencies, building upon the best practice of both Tribunals. We commend the flexibility that the Mechanism has shown during the transition phase with the ICTY, including through the one-office approach and dual-hatting of some staff. We welcome the Mechanism's progress in exploring ways to address the issue of the relocation of those acquitted and of released persons remaining in the Arusha safe house, which led to the relocation of two more individuals in December. We reiterate our call for the Mechanism to develop a process for risk-based assessments for relocation and encourage the Mechanism and States to continue to work together to address that pressing issue.

The cooperation of all relevant States with the ICTY and the Mechanism remains essential for the fulfilment of their mandate. All States are required to cooperate with the Tribunals in order to ensure that justice is delivered. That obligation applies particularly to the States in the region. The obligation to cooperate fully with the ICTY and the Mechanism is set out in the Chapter VII resolutions, which also require States to take any necessary measures under their domestic law to implement the resolutions establishing those bodies. They include the obligation to comply with requests for assistance or orders issued. Those obligations cannot be abrogated on the basis of domestic-law constraints.

We therefore urge all States in the region to lend their full support both to the ICTY in the final months of its operation and to the Mechanism once it assumes full responsibility for ICTY functions. While we understand that it is important to respect the differing competencies of the judiciary and the executive, the obligation to cooperate is binding and cannot be avoided. We also encourage greater cooperation with the Mechanism so

as to bring to justice the eight individuals who have been indicted by the ICTR but remain at large.

The successful completion of the Tribunals' work and their ultimate legacy for international criminal justice is dependent, in large part, on the individual and collective efforts of Member States. For our part, Canada, Australia and New Zealand will continue to offer our full cooperation to the ICTY and to the Mechanism to give practical effect to our steadfast commitment to international criminal justice.

The President: I now give the floor to the observer of the European Union.

Mr. Chaboureau (European Union) (*spoke in French*): I have the honour to speak on behalf of the European Union and its member States. The candidate countries of the former Yugoslav Republic of Macedonia, Montenegro and Albania, as well as Ukraine, associate themselves with the following statement.

We thank Judge Carmel Agius for his presentation of the twenty-fourth and final annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/72/266), which is the final report of the International Criminal Tribunal for the Former Yugoslavia (ICTY) under article 34 of the Statute of the Tribunal. We note with satisfaction that the Tribunal's projections concerning the completion of ongoing judicial procedures in the cases *The Prosecutor v. Ratko Mladić*, on trial, and *The Prosecutor v. Prlić et al.*, on appeal, remain the same. We can therefore expect the Tribunal to deliver its final verdicts in November.

The European Union and its member States are gravely concerned by Serbia's lack of cooperation with regard to the arrest warrants issued by the Tribunal against persons accused of contempt of the Tribunal within the framework of the case of *The Prosecutor v. Vojislav Šešelj*. That marks Serbia's return to the practice of non-cooperation with the Tribunal in terms of the arrest and transfer of the indictees. The absence of a verdict against the indictees would constitute a failure both for the Tribunal, as the end of its mandate could prevent the closure of those cases, and for the international community in its fight against impunity and for the promotion of international criminal justice.

We call on Serbia, as a country negotiating its accession to the European Union, to immediately begin

working with the Tribunal so as to execute the arrest warrants. Full and total cooperation with the Tribunal and with the International Residual Mechanism for Criminal Tribunals remains essential. The European Union insists that it is necessary for Serbia to cooperate fully with the Tribunal, including by unreservedly accepting and implementing the judgments and decisions of the ICTY.

We congratulate all of the bodies of the Tribunal on their activities throughout the reporting period. In that vein, we thank Judge Carmel Agius for the visits he has paid to Governments and international organizations, especially European Union institutions, with a view to ensuring their support and cooperation.

With regard to the closure of the Tribunal, we attach great importance to the unhindered liquidation of the Tribunal's assets and liabilities, as well as to the transition to the Mechanism. We also commend the Tribunal for its positive achievements in terms of establishing gender balance among its staff.

The prosecution of serious crimes by national courts in the region of the former Yugoslavia is essential for the consolidation of the rule of law, the quest for the truth, reconciliation among its peoples and, consequently, the maintenance of peace in the region. In that regard, the work of the Office of the Prosecutor aimed at cooperating with its counterparts in the countries concerned and improving the capacity, independence and impartiality of their judicial systems so as to assist them in prosecuting such serious crimes is fundamentally important.

Despite the progress noted by the Prosecutor concerning the prosecution of war crimes, crimes of genocide and crimes against humanity by national judicial authorities in the region of the former Yugoslavia, we are deeply disappointed by the trends observed in a number of candidate and potential candidate countries to the European Union to deny crimes committed during the conflict in the former Yugoslavia and to reject facts that have been established through the Tribunal's judgments. Revisionism and the defence of war crimes undoubtedly represent a threat to the stability of the entire region. In that framework, judicial cooperation under international law, including international criminal law, provides an instrument to combat such trends and strengthens efforts to ensure regional stability.

A few months prior to the Tribunal's closure, the European Union and its member States will pay tribute to the 7,000 employees, as well as the 87 Judges, five Prosecutors and four Registrars, who have worked for the Tribunal over the past 24 years. The Tribunal has completely fulfilled the mission entrusted to it by the Security Council, which was to prevent serious crimes committed during the armed conflicts that took place in the former Yugoslavia in the 1990s from going unpunished. We would like once again to draw the attention of the General Assembly to the Tribunal's contribution to the maintenance of peace and stability in a region that was formerly at war.

Moreover, the contribution of the Tribunal to the implementation of international humanitarian law and international criminal law is significant and its legacy must be preserved not only for the benefit of future generations in general, but also, more specifically, for the benefit of other criminal international criminal courts, including the International Criminal Court, as well as national courts and tribunals. It is therefore of the utmost importance that an appropriate implementation of international humanitarian law and international criminal law continue to be the guiding principle of the Tribunal until the end of its mandate.

The European Union and its member States welcomed the very positive outcome of the International Tribunal for the Former Yugoslavia Legacy Dialogues Conference, held in Sarajevo in June as part of a series, and look forward to the outcome of the symposium to be held in The Hague on 18 December, which will be followed by the closing ceremony for the Tribunal on 21 December.

Concerning the Mechanism, the European Union and its member States thank President Theodor Meron for transmitting the fifth annual report (A/72/261) of the Mechanism in accordance with article 32 (1) of its statute. We welcome the close cooperation that it has established with the Tribunal. It is of the utmost importance that those two judicial institutions work closely together during the remaining period of the Tribunal's mandate so as to enable the Mechanism to exercise the residual functions of the Tribunal.

We commend all the entities of the Mechanism for the work accomplished during the period covered by the report. We take note of the provisional release of Judge Aydın Sefa Akay, thanks to which the review proceedings in the case of *The Prosecutor v. Augustin*

Ngirabatware were able to resume. We call for new measures to resolve that matter with full respect for international law.

We welcome the work of the Office of the Prosecutor aimed at locating the eight persons at large and trying them before the Mechanism or a court under Rwandan jurisdiction. We express our gratitude to the international organizations and Governments that have helped the task forces established by the Office of the Prosecutor to locate the fugitives.

As in the case of the Tribunal, we believe that the prosecution by national jurisdictions of the crimes committed in Rwanda is crucial to the fight against impunity. The assistance provided by the Office of the Prosecutor is of paramount importance in that regard.

We welcomed the inauguration of the new premises of the Arusha branch of the Mechanism in Tanzania on 25 November 2016. We support the Mechanism's preference for maintaining the current premises at The Hague after the Tribunal's closure. Keeping those premises open will facilitate the transfer of residual functions of the Tribunal to the Mechanism, thereby contributing to the effectiveness of the Mechanism and to its cost-effectiveness.

With regard to the enforcement of sentences, we would like to thank the Member States that have concluded agreements with the Mechanism for the implementation of the relevant penalties on their territory, and we encourage other Member States to conclude similar agreements. We are grateful to the African States that have agreed to host released or acquitted persons on their territory, and encourage other Member States to conclude such agreements with the Mechanism in that area.

The European Union and its member States will continue to be firm advocates of international criminal justice, the mission of which is the promotion of the rule of law, combating impunity and the maintenance of international peace and security. We call on all States to cooperate with the Tribunal until the end of 2017 and thereafter with the Mechanism in full compliance with their obligations as set out in the relevant Security Council resolutions.

Ms. Kuret (Slovenia): It is an honour for me to represent the Republic of Slovenia in this important discussion. Slovenia aligns itself with the statement just delivered on behalf of the European Union. In addition,

we wish to contribute to today's discussion from our national perspective.

First, allow me to express Slovenia's appreciation to the President of the International Tribunal for the Former Yugoslavia (ICTY), Judge Agius, and to the President of the International Residual Mechanism for Criminal Tribunals, Judge Meron, for their respective informative reports (A/72/266 and A/72/261) on developments within the Court and the Mechanism.

Following more than 24 years of hard work with historic achievements and many lessons learned, the ICTY will close by the end of this year. Today's occasion warrants a reflection on the Court's accomplishments and legacy. Slovenia takes this opportunity to express its utmost appreciation to the Tribunal for all its endeavours and to pay tribute to its far-reaching contribution.

The ICTY was established in response to a dire need to deal with some of the most tragic events in recent times. It was established as a unique tool for combating impunity through the authority of the Security Council. The establishment, functioning and jurisprudence of the ICTY have all contributed importantly to enhancing and consolidating international criminal law and international humanitarian law. The Court has been instrumental in bringing about justice and giving a voice to thousands of victims of the most heinous crimes. It has inspired the international concept of transitional justice and affirmed the critical importance of outreach activities. Moreover, the Court contributed to the establishment of facts and the strengthening of national capacities, and, importantly, it affirmed that no one is above the law, not even leading politicians.

It is therefore not surprising that the ICTY inspired the establishment of other international criminal courts, including the International Criminal Court, which is the first of its kind. Despite the ICTY's numerous and historic accomplishments, however, the process has not been without challenges and criticism. A sense of incompleteness remains, not least due to the fact that not all of those who were indicted were given a final verdict. The lessons that we learned from the experiences of the ICTY are therefore relevant in terms of making further improvements.

Given the proximity of the Western Balkan region to Slovenia, we have followed the work and developments of the Court closely. We remain aware of the persistent challenges, including the rise of nationalism. Intolerance, outstanding bilateral issues and the pursuit

of particular political interests across the region also stand in the way of needed reform. Sadly, the region is still burdened by memories and resentment. Ongoing impunity for crimes committed on the territory of the former Yugoslavia only deepens that sentiment.

Further, the growing instances of crimes committed during the conflict in the former Yugoslavia being denied are a source of concern. The revisionism and glorification of war crimes are indubitably counterproductive to the stability of the region. As part of its foreign-policy priorities, Slovenia is striving to contribute to reconciliation in the territory of the former Yugoslavia and stability in the Western Balkan region. That is why Slovenia has always resolutely supported the work of the ICTY.

It is our firm conviction that concluding trials against individuals charged with atrocity crimes is essential for the past to be accepted and responsibility assumed. This, in turn, is decisive for paving the way to long-term peace and reconciliation among nations of the region. Teaching objective historical truth is also essential for greater development and stability in the region; it is the best way to ensure a better future — one that is not burdened with the past — for the young generation. Against this background, Slovenia wishes to commend the Court for its legacy strategy. In particular, we welcome the idea of establishing information centres in the countries concerned. This will ensure that information about the work of the ICTY remains accessible to the public.

Slovenia is pleased that all 161 individuals indicted for serious violations of international humanitarian law have been accounted for. This is an important aspect of the Court's success. Accordingly, we wish to reiterate that full and prompt cooperation with the Court, which is prescribed by international law, remains crucial.

Respect for and application of decisions by international tribunals cannot depend on political convenience. Instead, they should reflect a commitment to respect for the rule of law. Any other approach would be perceived as no more than a deliberate failure to comply with the obligations set forth by international law. As the ICTY is slowly winding down its operations, it will be vital for countries to show a commitment to combating impunity at the national level, in good faith and with due respect for the principles of *res judicata* and *ne bis in idem*. In these efforts, judicial cooperation will continue to play an important role.

Just as the Nuremberg and Tokyo trials form part of our collective memory, the ICTY will leave a permanent mark through its normative and non-judicial legacy, which will continue beyond the Tribunal's closure to inform the work of national, regional and international jurisdictions. Furthermore, the legacy of the ICTY will inform the consideration of such critical issues as the quality of judges and the importance of effective cooperation and financial stability. This legacy will also remind us to manage expectations so as to avoid raising unattainable hopes.

But most importantly, the legacy of the Tribunal should be a pledge by the international community to the world that those responsible for atrocities will be brought to justice. It should be a reminder to future generations that the most tragic chapters in recent European history should never be repeated. Slovenia looks forward to the completion of the ICTY mandate, its timely closure and an efficient transition process to the International Residual Mechanism for Criminal Tribunals. We remain committed to promoting the rule of law and accountability.

Mrs. Rugwabiza (Rwanda): I thank Judges Agius and Meron for their briefings on the activities of the courts.

More than 20 years ago, the Security Council decided to create the Tribunals to try those responsible for serious violations. In this regard, the systems we create always require us to look back and check their usefulness. It is within this perspective that Rwanda is participating in today's debate — to see whether the International Criminal Tribunals in place have met expectations in terms of ensuring accountability.

While Rwanda remains concerned that several fugitives, including the three top-priority figures, are still at large, we commend the efforts of Office of the Prosecutor in its efforts to reform and strengthen its fugitive-tracking unit. Our wish is to see this initiative give rise to tangible results. We also appreciate the cooperation between the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals and Rwanda's national prosecution office. We reiterate our call to States Members of the United Nations to collaborate with the Rwanda national prosecution office and the Office of the Prosecutor of the Mechanism to arrest fugitive perpetrators of genocide, pursuant to Security Council resolutions, and urge the Member States harbouring those fugitives to

honour their obligations under international law and arrest them.

Rwanda will limit its observations to the performance of the International Criminal Tribunal for Rwanda (ICTR), which was given the mission by the Security Council to contribute to the process of national reconciliation and the restoration of international peace, to stating that, in our experience, these objectives are far from having been achieved. The simple reason for that is that most of the master-planners of the 1994 genocide are still at large.

I would like to speak to the issue of early release. Rwanda is deeply concerned at the alarming number of pardons and of convicted masterminds of the genocide being granted early release, despite the gravity of the crimes committed, namely, the crimes of genocide and crimes against humanity. This use of early release is in total disregard of the rules of procedure. While the rules of procedure for the Mechanism for the Criminal Tribunals are very clear with respect to the commutation of sentences and pardons, the Practice Direction on the procedure for the determination of applications for early release does not provide for transparency in the process. Nor does it allow for any form of recourse, as it excludes consultations with prosecutors, national judges and the Government of Rwanda, although the rules of procedure and evidence clearly stipulate that the Government of Rwanda should be notified of any application and request for early release.

In addition, in cases where those convicted have been granted early release, there are no measures in place for ongoing monitoring to guarantee that these individuals are not re-engaging in genocide ideology. Indeed, there is publicly available evidence that the beneficiaries of early release by the Mechanism are now actively spreading genocide ideology with total impunity.

The International Residual Mechanism for Criminal Tribunals does not require convicts to sign statements indicating that they understand that any early release is subject to certain conditions. It is clear that even when granted early release or a reduced sentence, a convict is in no way impeded from continuing to promote the kinds of divisive, sectarian and genocide ideology described in the progress report submitted by the Prosecutor to the Security Council (see S/2017/434, annex II). We also note that the progress report discusses increasing incidents of denial of genocide, which are warning signs

that must not be ignored by the General Assembly, as they could undermine the great strides that have been made in past decades towards ending impunity for war crimes, genocide and crimes against humanity.

In conclusion, I wish to point out that, with respect to monitoring cases referred to national courts, we note with regret from the Prosecutor's reports that no action has been taken by several countries in the 10 years that they have had cases referred to them. Repeated delays in proceedings in cases referred by the ICTR, now the Mechanism, are tantamount to a denial of justice and make it difficult for these institutions' stated commitment to international justice and the protection of all human rights, including the right to justice, to be credible.

Mr. Backović (Serbia): It is my honour to address the General Assembly today as the representative of the Republic of Serbia. I would like to welcome Judge Carmel Agius, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and thank them for their annual reports (A/72/266 and A/72/261).

The common goals of Member States related to the key principles of international criminal law and international humanitarian law have led, *inter alia*, to the establishment of two main tracks to fight against impunity for the most serious international crimes. First, Member States renounce a significant part of their competencies with regard to the prosecution of war crimes in favour of international criminal tribunals. Secondly, they work to establish and improve the quality of special mechanisms in their national judicial systems so as to strengthen them, leading thereby to the efficient prosecution of war crimes.

Efforts made by individual States to achieve tangible results on both tracks are not always equally fruitful, but they are also not always judged equitably. The same is true of the assessment of the ICTY's efforts when its results are compared to those of individual States. However, if we take note of the steps taken to date by Serbia to date in this regard, it is hard to deny the fact that Serbia is probably the only country that has successfully fulfilled its roles on the two tracks related to prosecuting war crimes, in particular serious international crimes. In other words, Serbia is second to none when it comes to the prosecution of war crimes and its cooperation with the ICTY.

With respect to the obligation to cooperate with the ICTY, Serbia has fully complied at both the legislative and implementation levels. Our criminal legislation is fully aligned with relevant standards, which allows us too cooperate with the ICTY without exception in terms of all acts that the Security Council recognized in the ICTY Statute as serious international crimes. Based on this legislation, Serbia has proved its commitment, which is seen in the number and rank of defendants who have been surrendered to the ICTY.

The Republic of Serbia has handed over to the Tribunal 45 of the total of 46 defendants whose surrender was demanded from Serbia. One defendant committed suicide before he could be handed over to the Tribunal. We are therefore speaking about 100 per cent compliance. Of the 45 defendants turned over, 14 were arrested in Serbia, 4 were arrested abroad within the framework of cooperation among national security services and foreign agencies, and 27 defendants voluntarily surrendered.

In addition to numbers, I must point out the rank of the persons surrendered. Almost all of them were highly ranked officials. Some even occupied leading positions in the Serbian army and the executive branch of the Administration. This shows that Serbia has cooperated with the ICTY without compromise. I am not sure that the same could be said about any other State.

In addition, Serbia provided the ICTY Prosecutor with free access to important evidence located in Serbia, such as documents, archives and witnesses. To date, Serbia has positively resolved all 2,183 requests for assistance received from the Offices of the ICTY. In addition, all 2,172 requests we received from the Office of the ICTY Prosecutor have been granted. Serbia allowed 759 witnesses to testify freely despite the rights or obligations they had to withhold testimony on the grounds that State, military or official secrets were involved. Another 1,338 requests were made by various defence teams to the Serbian authorities; none of these requests for assistance remain pending, nor are they any outstanding disputes.

Serbia carried out all 11 requests for witness protection. Furthermore, Government agencies successfully monitored all provisional release cases and ensured that all the accused were returned to detention under ICTY supervision upon request. Currently, the Serbian authorities are monitoring only one case of provisional release.

With respect to the other track, Serbia has continuously worked to improve its national judicial system, in line with the strategic course provided in the Action Plan for Chapter 23 and the national strategy for the prosecution of war crimes adopted by the Government in 2016. To streamline reform processes, the Serbian Government recently established a monitoring mechanism to closely oversee the implementation of the national strategy. The mechanism is coordinated by a working group headed by the Minister of Justice and the newly elected War Crimes Prosecutor. We believe that the mechanism will make a significant contribution to the dynamics of reform.

In parallel, Serbian authorities are working on strengthening the capacities of the Office of the War Crimes Prosecutor. Two indictments for war crimes against six individuals were issued in Serbia in 2016. Some 420 cases are currently under review by the War Crimes Prosecutor and awaiting a decision as to whether they will be prosecuted. The monitoring of war-crimes-trial proceedings by the Organization for Security and Cooperation in Europe's Mission to Serbia and civil-society organizations remains ongoing, and special training is being provided to judges, public prosecutors and police officers participating in the investigation and prosecution of war crimes. The Ministry of Justice recently completed comprehensive analysis activities in preparation for the drafting and adoption of the new national strategy to improve the situation of victims and witnesses.

We fully support the comments made in the ICTY report on the importance of reconciliation and cooperation in the region, and our commitment to this idea is made clear in the statistical data on regional cooperation. According to statistics from the Office of the War Crimes Prosecutor, in 2017, Serbia resolved 32 out of 50 requests from Bosnia and Herzegovina. Ten requests were denied, while eight are still pending. Six out of 15 requests from Croatia have been resolved; none were denied, but nine are still pending. Meanwhile, only 16 out of 30 Serbian requests have been positively resolved by Bosnia and Herzegovina. The results are ever worse with respect to the requests for assistance that we submitted to Croatia — only two out of nine requests have been positively resolved.

Despite all the facts that prove Serbia's commitment to the efficient and non-selective prosecution of war crimes, there are unfortunately some parts of the ICTY Prosecutor's report contained in S/2017/436 that go

significantly beyond the facts, the law and even the basic rule of law and principles of democratic society. In this report, in the case of *Prosecutor v. Petar Jojić et al.*, the Serbian obligation to respect the decisions of independent Serbian courts is seen as an absence of political will to cooperate with the ICTY.

The *Jojić* case is one of contempt of court. It is not a war-crime case, nor is it a case of an alleged serious war crime; rather, it is a case of contempt of court for the alleged intimidation of witnesses. Serbian courts ruled that these indictees could not be extradited to the ICTY, as that is not provided for in Serbian law. The relevant Serbian law is a word-for-word translation of ICTY Statute. Therefore, not only does Serbian law not provide for extradition of persons who were not indicted for serious war crimes, but the ICTY Statute also clearly excludes extradition for alleged crimes that are not serious war crimes. I ask everyone present to please read the Statute, or better yet, have their lawyers read the Statute.

Why does the Statute not provide for the type of extradition that is being sought by the Tribunal? There are two possibilities. First, this type of extradition may have intentionally not been provided for, which is most likely, given that the Statute explicitly provides for the extradition of only those accused of serious war crimes. In other words, if the Statute does not provide for extradition for those accused of crimes other than serious war crimes, then, naturally, it will not provide for the extradition of people indicted or accused of lesser, ancillary crimes; that much is obvious. Secondly, pursuant to the explanation proffered by the ICTY, if the drafters of the Statute had in fact intended to provide for the extradition of indictees for crimes other than serious war crimes, their failure to actually do so was a substantial error on their part. If they had wanted to provide for such extradition in the Statute, they should have put it in the Statute.

Regardless of which of these hypothetical explanations is accurate, it is simply erroneous to now require the Serbian Government to fix the problem or mistake. It is equally wrong to label the Serbian Government's adherence to the rule of law in this case as a lack of political will. I submit to the General Assembly that the rule of law cannot be advanced by violating the rule of law.

The ICTY has completed its operations, but I am not sure that it can be said that it has accomplished

its mission. In my foregoing remarks, I have briefly described the steps that Serbia has taken to deal with war crimes. However, if we apply the same criteria used to assess Serbia to assess the ICTY's results, I would say that the outcome could be negative, in terms of the average length of proceedings, the lack of respect for procedural guarantees for the accused, and the national character of defendants, decisions and sentences. However, none of this will influence Serbia's commitment to the non-selective prosecution of war crimes.

In conclusion, I would like to emphasize once again the indisputable need for us to work together on promoting the basic values and common understanding of future cooperation and reconciliation in the region. Without further challenging the ICTY results in this regard, I believe that the milestone of future regional stability should be reached through the efforts of individual countries in the region, as well as in their active, open and constructive dialogue and cooperation.

Mr. Arrocha Olabuenaga (Mexico) (*spoke in Spanish*): Mexico expresses its appreciation to the International Criminal Tribunal for the Former Yugoslavia for the valuable work that it has carried out during its 24 years of operation. As the first ad hoc international criminal tribunal created by the Security Council under Chapter VII of the Charter of the United Nations, the Tribunal is undoubtedly a landmark, historic achievement. Its jurisprudence has greatly contributed to the interpretation and development of international criminal law, which for four decades had relied exclusively on the legacies of the Nuremberg and the Far East tribunals.

The rulings of the Tribunal have set precedents that are used in the work of the other international and hybrid criminal tribunals that were subsequently established, including, of course, the International Criminal Court. The fact that the Tribunal has succeeded in the investigation and prosecution of the 161 indicted individuals and that there are no remaining fugitives is a clear success story that serves as an example for all tribunals to come.

Mexico commends the efforts undertaken by the Tribunal to complete its work and fulfil its mandate by the end of 2017, in full respect of procedural guarantees and the rights of the defendants to a fair trial. We also commend the Tribunal's efforts aimed at ensuring the timely and effective transfer of its

functions to the International Residual Mechanism for Criminal Tribunals.

Mexico participated actively in the negotiations towards and, since 2010, has supported the establishment of the Residual Mechanism. We welcome the progress that the Mechanism has made so far. We recognize that its work is essential, not only to complete the residual judicial tasks of the predecessor Tribunals, including appeals and the ongoing protection of witnesses and victims, but also to preserve and disseminate the valuable international criminal law legacy that the Tribunals have left behind.

Finally, beyond welcoming the progress made by the Tribunals and the Mechanism, Mexico wishes to reiterate its full commitment to fighting impunity for the most serious international crimes of international concern and to international criminal justice in general.

Ms. Sapag Muñoz de la Peña (Chile) (*spoke in Spanish*): Once again, Chile welcomes the outstanding work that has been carried out by the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals. Their firm commitment to concluding pending proceedings expeditiously and in accordance with the rules of due process has been clearly reflected in the briefings of their respective presidents, Judge Carmel Agius and Judge Theodor Meron, and in their annual reports (A/72/266 and A/72/261), all of which my delegation has followed with great interest and attention.

In this crucial year for the fulfilment of the Tribunal's completion strategy, Chile welcomes the solid progress made towards this end, with only two cases left for deliberation in November. We regret, however, that the repeated calls for greater international cooperation in situations where the Office of the Prosecutor had alleged State inaction for the failure to execute arrest warrants that had been issued by the Tribunal, have gone unheeded. Full cooperation with the Tribunal and its officials remains essential. We wish to express particular appreciation for the Legacy Dialogues, which represent an additional effort aimed at bringing the Tribunal's work closer to the region that inspired its establishment and to publicly embody the achievements in terms of due accountability, the end of impunity and the progressive development of norms that shape international law.

With regard to the Residual Mechanism and its two branches — in Arusha and The Hague — Chile welcomes the fulfilment of the many tasks aimed at effectively and efficiently resolving the outstanding issues arising from the completion strategy of the International Criminal Tribunals for Rwanda and the former Yugoslavia. In particular, we acknowledge and share the priorities that the Office of the Prosecutor has put in place to complete the proceedings that remain open, locate and arrest the eight fugitives sentenced by the International Criminal Tribunal for Rwanda, and assist national jurisdictions in prosecuting international crimes committed in the former Yugoslavia and Rwanda.

Preserving the legacy of the International Criminal Tribunals and the Mechanism is a current challenge of concern to the entire international community. Through this legacy, the architecture of international justice is strengthened, making it vital for other courts and tribunals, particularly the International Criminal Court, which considers the Rwanda and Yugoslavia Tribunals to be affiliated bodies that we are called to respect and promote in the fight against the most serious crimes and to bring about an end to impunity.

Finally, I would like to reiterate what a privilege it was for Chile to lead the Security Council Informal Working Group on International Tribunals during the biennium 2014-2015, which we took over from Guatemala and passed on to Uruguay, which now chairs the Working Group. It is with gratitude and the conviction that goes with recognizing the importance of this chapter in the history of international justice that my country congratulates everyone involved in this praiseworthy task.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): We thank the leadership of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals for their reports on the activities of these bodies, submitted to the General Assembly on a yearly basis (A/72/266 and A/72/261).

We welcome the commitment expressed by the leadership of the ICTY to completing all trials at the Tribunal and closing it by the end of 2017. As we all know, this should have happened in 2010. However, this deadline — and others mentioned in resolution 2329 (2016) — were, unfortunately, missed.

Today's meeting ends our discussion of the Tribunal's reports in the General Assembly. We take

note of the efforts made by the leadership of the Tribunal to prevent any postponements and to announce pending decisions in November, as scheduled. Despite the open contempt case commenced by the Tribunal in the context of the completed trial of Vojislav Šešelj, we believe this should not influence the course of the closure of the ICTY.

The report of the ICTY touches upon the issue of the legacy of the Tribunal. Once again, the results of the work of the Tribunal have yet to be impartially analysed, not only in terms of the convictions and acquittals it handed down, but also in terms of the genuine impact it has had on the processes of reconciliation and restoration of confidence among the peoples of the former Yugoslavia. Given the problems that have been accumulating within the Tribunal for years, we do not think that the assessment will be unequivocally positive. Our position on this issue has been voiced repeatedly, and we believe that serious flaws in the Tribunal's functioning over an extended period will continue to have a negative impact on the prospects for international criminal justice. We hope that the ICTY's activities during its final stretch will not give us new reasons to be critical of it.

During the reporting period, the appeal of the verdict in the case of *The Prosecutor v. Augustin Ngirabatware* was placed on the docket of the Residual Mechanism. We hope that information about the expected duration of this and other legal proceedings in the Residual Mechanism will be set forth more substantively in a future report.

We have also read the sections of the report devoted to the activities of the Residual Mechanism in terms of capacity-building for national judicial bodies that conduct criminal prosecution in war-crimes cases. We noted the truly global nature of efforts made by the Prosecutors in this area. Work is being done in countries that have nothing to do with the situations currently under review by the ICTY and the Residual Mechanism. We hope that such activity is not being paid for out of the United Nations budget. In any event, we doubt the appropriateness of the Residual Mechanism training prosecutors and advertising its own successes.

In this regard, I would again like to recall that, pursuant to resolution 1966 (2010), the Residual Mechanism is a temporary entity with a clearly delineated mandate; it is not a new international court. We therefore call for strict observance of this Security

Council resolution. We expect the Residual Mechanism not to be distracted by tasks outside its mandate. Rather, it should focus on closing the cases that will have been referred to it following the closure of the ICTY and on ensuring maximum efficiency in legal proceedings, including the length of trials.

Mr. García Reyes (Guatemala) (*spoke in Spanish*): We are grateful for the presentation of the twenty-fourth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/72/266), which we understand to be the last annual report of the Tribunal before its closure, which is scheduled for 31 December.

My delegation has noted how the Tribunal has continued to make significant progress in finalizing its completion strategy. We also note that the 161 persons accused of serious violations of international law have already been tried, leaving only two substantive cases. We welcome the fact that both cases have advanced at an appropriate pace to be able to issue the respective rulings before 30 November. We also commend the efforts of judges and staff aimed at fulfilling all of the Tribunal's responsibilities in a punctual manner.

We would like to add that Guatemala has welcomed the fact that in addition to carrying out judicial functions, the Tribunal's liquidation efforts have remained a priority, and, in fact, its pace has accelerated during the period covered by the report before us, which shows that the Tribunal is resolved to carry out the liquidation process smoothly and successfully. As part of those activities, we are pleased to note that the twenty-fourth annual report outlines the Tribunal's activities for the period from 1 August 2016 to 31 July 2017 and shows that each body of the Tribunal continued to take measures to complete its mandate by the end of this year, not only with regard to the conclusion of judicial proceedings, but also focusing on the need for an efficient liquidation process and a smooth transition to the International Residual Mechanism for Criminal Tribunals.

Guatemala wishes to thank the President of the Tribunal and its other officials for what is contained in the report and for the environment on the ground as they leave the field. Each of them took full advantage of every opportunity to strengthen the Tribunal's image inside and outside of the former Yugoslavia, through their Legacy Dialogues and in all the steps they are

taking with regard to the legacy the Tribunal will leave behind.

We also wish to emphasize that the Tribunal's lessons are relevant in terms of what can be expected from other international criminal tribunals and courts. Accordingly, expectations must be managed from the outset so as not to forget the victims and communities affected. If possible, the judgments of the Tribunal should be integrated into the jurisprudence of the national courts of the former Yugoslavia, so that the national courts and tribunals of each State are involved in the efforts to strengthen local civil-society initiatives with respect to accountability and reconciliation.

The International Criminal Tribunal for the Former Yugoslavia has demonstrated that it is necessary and possible to prosecute high-impact cases, including cases of sexual and gender-based violence. The Tribunal must ensure that the citizens of the region have at their disposal — and in all local languages — a permanent record of the crimes committed during the conflict in the Balkans so that such atrocities do not recur. It is also necessary for the national authorities in each State of the former Yugoslavia, as well as members of civil society and the United Nations, not to forget — and we should not forget — reparations and the memory of the victims, with a view to providing justice, improving the penal systems and preventing crimes against humanity in future.

Finally, we call upon all interested and involved States to cooperate fully with the Tribunal and its officials, as well as to abide by and comply with the orders it issues, so that it can fully complete its functions as befits such an important Tribunal.

Mr. Trujillo (United States of America): As we look to the near horizon in December and see the coming closure of the International Criminal Tribunal for the Former Yugoslavia (ICTY), the United States again extends its sincere appreciation to President Meron, President Agius and Prosecutor Brammertz for their ongoing work to achieve justice for victims of the vicious atrocities committed in the former Yugoslavia.

It is especially important to be here today participating in this debate, as we continue to face conflicts where serious crimes have been committed. We must continue to find ways to uphold accountability for perpetrators of atrocities and justice for the victims. As we look to the closure of the ICTY in December, we remain as committed as ever to the Tribunal, the

independence of its work and the successful transfer of functions to the International Residual Mechanism for Criminal Tribunals.

The United States wishes to underscore that while the ICTY is successfully concluding its mandate, there remains much to do in pursuit of justice and reconciliation. We must now turn our focus from fulfilling national-level obligations to resolving outstanding war-crimes cases. We remain willing to support such efforts. We applaud the ICTY for adhering to its completion schedule. It is on track to deliver judgments in its two remaining substantive cases by the end of November.

With respect to the upcoming appeal of the judgment in the case of *Prosecutor v. Jadranko Prlić et al.*, which involved six former high-ranking officials from Herceg-Bosna, we support the independence of the Tribunal in reaching its decision. With respect to the cases against Ratko Mladić, who is charged with 11 counts of genocide, crimes against humanity, and violations of the laws and customs of war, we see it as a fitting bookend to the work of the Tribunal and yet another example for the world to see that eventually those alleged to be responsible for atrocities will ultimately face justice. Both of these cases, like all others, involve questions of individual criminality, and should not be seen as trials of any one country.

The United States also commends the work, under the leadership of the President of the ICTY, to hold legacy and closing events that can help ensure a long-lasting impact, particularly in ongoing efforts aimed at achieving justice and reconciliation.

The United States remains concerned about the divisive nature of statements made by some individuals in the region that have a negative impact on cooperation in the pursuit of justice for war crimes committed in the former Yugoslavia. That is particularly true when individuals deny or seek to revise the true record of crimes established by the ICTY. We should strive to depoliticize the historical record, which can help prevent a repetition of such widespread atrocities and create the space for technical experts to meet, share information and work together in various forums to resolve remaining cases.

The United States also remains concerned about the Government of Serbia's failure to execute the arrest warrants for the two surviving individuals charged with contempt of court in relation to witness intimidation in

the case of *Prosecutor v. Vojislav Šešelj*. We continue to encourage Serbia to fulfil its obligations.

The International Residual Mechanism for Criminal Tribunals has also made notable progress since we last convened here on this item (see A/71/PV.44). From an administrative perspective, staff has moved into new premises in Arusha, Tanzania. Substantively, there has been continued focus on the expeditious completion of trials and appeals.

The United States applauds the Mechanism's efforts to assist national jurisdictions by, inter alia, processing requests to question detained persons and protected witnesses. We understand that during the reporting period the Office of the Prosecutor also answered 11 requests from Member States and one international organization with regard to Rwanda, and 239 requests for assistance from eight Member States and three international organizations with regard to the former Yugoslavia. In addition, it conducted capacity-building activities with national authorities from Africa, Europe and Latin America. We are impressed with the range of assistance being provided while the Mechanism remains, under the Security Council's direction, a small and efficient structure.

The Office of the Prosecutor is continuing its efforts to locate and arrest the eight remaining fugitives, three of whom will be tried by the Mechanism — Félicien Kabuga, Protais Mpiranya and Augustin Bizimana; and five of whom will be transferred to Rwanda — Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Phénéas Munyarugarama and Charles Ryandikayo. To that end, we appreciate the Prosecutor's review of tracking efforts and the development of updated and concrete strategies for apprehending the remaining fugitives. This includes the development of two task forces — one focused on Africa and the other on Europe — thereby bringing together key national law-enforcement authorities, as well as INTERPOL. We commend the Prosecutor for undertaking the much-needed restructuring of the tracking team to ensure that it has the capacity to conduct the range of investigative activities needed to succeed in its mission.

The United States remains equally committed to those efforts. We continue to offer a reward of up to \$5 million per fugitive for information leading to the arrest or transfer of those eight men and stand ready to engage with the new task forces. We likewise call on

all States, especially those in the Great Lakes region, to cooperate with efforts to apprehend these fugitives.

Finally, I want highlight once again two of my earlier points. First, while the ICTY is successfully concluding its mandate, reconciliation and the pursuit of justice remain priorities. We are now focusing our attention on national-level obligations to resolve remaining war-crimes cases. Secondly, the work of both the Mechanism and the ICTY reminds us that, in the face of horrific atrocities, we can work together to hold perpetrators accountable and achieve a measure of justice for their victims.

The President: May I take it that it is the wish of the Assembly to take note of the twenty-fourth and final annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991?

It was so decided.

The President: May I also take it that it is the wish of the Assembly to take note of the fifth annual report of the International Residual Mechanism for Criminal Tribunals?

It was so decided.

The President: I call on the representative of Turkey, who wishes to speak in explanation of position.

Mr. Begeç (Turkey): I have asked to take the floor in order to register my country's position with regard to the fifth annual report of the International Residual Mechanism for Criminal Tribunals (A/72/261).

Certain contents of the report refer explicitly or implicitly to my country and Turkish nationals, including

in its paragraphs 16 and 26. The official position of Turkey with regard to the matter of diplomatic immunity has been shared with the appropriate counterparts of the Office of Legal Affairs of the Secretariat, as well as with the Secretary-General, through a note verbale dated 11 November 2016 and a letter dated 6 February 2017, respectively. These communications expressed, inter alia, our disagreement with the competent United Nations authorities on the scope of the immunity enjoyed by the Turkish Judge of the Mechanism.

We have also communicated our views with regard to certain acts of the Mechanism and the abuse of authority thereof, through a letter to the President of the Security Council dated 10 March. This letter has subsequently been distributed to the wider membership as document S/2017/210.

In the light of the foregoing and in accordance with decision 55/488, I would like to state for the record Turkey's non-concurrence with and resultant disapproval of the aforementioned sections of the report and to register the lack of consensus on them in the General Assembly.

Some Member States have also expressed views on this subject. Notwithstanding the literal content of those views, allow me to say that any attempt or intent to interfere with the independent judiciary of a Member State is neither permissible nor welcome, in particular in this Hall.

The President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda items 75 and 129?

It was so decided.

The meeting rose at 4.55 p.m.